

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

JOSE MONTES, *et al.*,
Plaintiffs,
vs.
BANK OF AMERICA, *et al.*,
Defendant

2:13-cv-660-RCJ-VCF

ORDER

BANK OF AMERICA, *et al.*,
Defendants.

This matter involves Plaintiff Jose Montes' bad faith insurance action against Bank of America, *et al.* on behalf of a putative class. (*See* Compl. (#1) Exhibit A at 8-9¹). Before the court is Montes' motion to compel (#35). Bank of America opposed (#44); and Montes replied (#51).

Montes' moves the court to compel Bank of America to disclose facially discoverable information in response to Montes' interrogatories. Bank of America opposes Montes' request on several grounds, including (1) relevance, (2) Montes' alleged failure to meet and confer, (3) Montes' alleged waiver of the right to compel, (4) an alleged bank-customer privilege, and (5) under Federal Rule of Civil Procedure 33(a)(1), which limits the number of interrogatories to twenty five.

The court's preliminary review of the parties' papers indicates that Bank of America's opposition is unavailing. The court is not persuaded that Montes' requests are not within the scope of Rule 26, prohibited by an alleged bank-customer privilege, or that Montes waived its right to compel. Bank of America's assertion that the parties should be required to meet and confer is similarly unpersuasive. The record reflects that counsels' relationship is becoming acrimonious. It is, therefore,

¹ Parenthetical citations refer to the court's docket.

unlikely that a "meaningful" meet and confer would occur, as required by *ShuffleMaster, Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166, 171 (D. Nev. 1996).

However, the court cannot determine whether Montes' interrogatories complied with Rule 33(a)(1). Montes did not include an original copy of the interrogatories as an exhibit to Montes' motion or reply. Additionally, Bank of America reorganized and renumbered Montes' interrogatories when it responded to Montes' request.

ACCORDINGLY, and for good cause shown,

IT IS ORDERED that Jose Montes will file a SUPPLEMENT to Montes' motion to compel that includes an original copy of the interrogatories propounded on each Defendant by April 11, 2014.

IT IS SO ORDERED.

DATED this 3rd day of April, 2014.



CAM FERENBACH
UNITED STATES MAGISTRATE JUDGE